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U.S. DISTRICT COURT

J. Kent Rutledge  
LATHROP & RUTLEDGE, P.C.  
1920 Thomas Avenue, Suite 500  
P.O. Box 4068  
Cheyenne, WY 82003  
(307) 632-0554  
(307) 635-4502 Fax  
ATTORNEYS FOR DEFENDANT TUBACH

UNITED STATES DISTRICT COURT  
DISTRICT OF WYOMING

ROGER MacDONALD-EVOY and  
KATHLEEN MacDONALD-EVOY,

Plaintiffs,

vs.

MARTIN L. TUBACH, M.D.

Defendant.

Civil No. 2001-CV-147-J

**ANSWER**

COMES NOW, Defendant, Martin L. Tubach, M.D., by and through his attorneys  
and answers the Complaint as follows:

1. Defendant admits the allegations in ¶'s 1, 3 through 6, and 24.
2. Defendant is without knowledge sufficient to form an opinion as to the truth of the allegations in ¶'s 2, 27 through 30, 36, and 37, and therefore denies those allegations.

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3. With respect to ¶ 7, Defendant admits that on August 18, 1999 he attempted to perform a revision endoscopic sinus surgery on Plaintiff Roger MacDonald-Evoy, and that the surgery was intended to be a same-day surgical procedure. Defendant denies each and every other allegation in ¶ 7.

4. With respect to ¶ 8, Defendant admits that he had a legal duty to Plaintiff Roger MacDonald-Evoy, but denies that the standard of care is accurately described in ¶ 8 of the Complaint.

5. With respect to ¶ 22, Defendant admits that Plaintiff Roger MacDonald-Evoy was kept in the hospital for approximately three weeks, that he was in the Intensive Care Unit during some of this time, and that he suffered headaches during the time he was hospitalized. Defendant denies the remaining allegations in ¶ 22.

6. Defendant admits that after Plaintiff Roger MacDonald-Evoy was discharged from the hospital he was seen in Defendant's office on September 13, 1999, at which time he complained of occasional headaches and occasional flow of clear liquid from his nose. Defendant denies the remaining allegations in ¶ 25.

7. With respect to ¶'s 42 and 43, Defendant admits that the procedure planned for Plaintiff Roger MacDonald-Evoy carried certain risks, but denies that those risks are accurately characterized in ¶'s 42 and 43.

8. Defendant denies each and every other allegation in the Complaint which has not been specifically admitted herein.

WHEREFORE, Defendant Martin L. Tubach, M.D., prays that the Complaint against him be dismissed, for his costs incurred herein, and for such other and further relief as the Court deems just and proper.

DATED this 30<sup>th</sup> day of October, 2001.

MARTIN L. TUBACH, M.D.,  
Defendant

By: \_\_\_\_\_



J. Kent Rutledge, of  
Lathrop & Rutledge, P.C.  
1920 Thomes Ave., Suite 500  
P.O. Box 4068  
Cheyenne, WY 82003  
ATTORNEYS FOR DEFENDANT TUBACH

**CERTIFICATE OF SERVICE**

I hereby certify that I served a true and complete copy of the above and foregoing upon Plaintiff on this 30<sup>th</sup> day of October, 2001, by mailing a true and complete copy to the following attorneys of record:

Don Sullivan, Esq.  
Sullivan Law Offices  
P.O. Box 1854  
2103 Evans  
Cheyenne, WY 82003



J. Kent Rutledge